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EXAMINER

ANDERSON II, JAMES M

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte IZZAT IZZAT, DONG-QING ZHANG, and
YOUSEF WASEF NIJIM

Appeal 2016-004166
Application 12/531,101
Technology Center 2400

Before ALLEN R. MacDONALD, ADAM J. PYONIN and
MICHAEL J. ENGLE, *Administrative Patent Judges*.

MacDONALD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–11, 13–30, and 32–38. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim

Exemplary claim 1 under appeal reads as follows (emphasis added):

1. A method for combining text with three-dimensional image content to prevent obstruction in a three-dimensional image, the method comprising the steps of:

receiving three-dimensional image content;

determining a maximum depth value of the three-dimensional content; and

combining text with the three-dimensional image content at the maximum depth value.

Rejections on Appeal

The Examiner rejected claims 1, 9, 11, 18, 20, 28, and 30 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Yoshinari (JP 2004-274125; September 30, 2004) and Tomita (US 2002/0008906 A1; pub. January 24, 2002).¹

The Examiner rejected claims 2–8, 10, 13–17, 19, 21–27, 29, and 32–38 under 35 U.S.C. § 103(a) as being unpatentable over Yoshinari and Tomita in various combinations with other references.²

¹ Separate patentability is not argued for claims 9, 11, 18, 20, 28, and 30. Except for our ultimate decision, these claims are not discussed further herein.

² These rejections are argued by reference to the arguments for their base claim. App. Br. 11. Therefore, our decision as to claim 1 is determinative

*Appellants' Contention*³

Appellants contend that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) because:

Yoshinari merely states that a background appears at a distance without discussion about determining that distance from three-dimensional content or a maximum depth of three-dimensional content.

App. Br. 8.

[T]he portions of Yoshinari indicated by the Examiner (FIG. 1 and paragraphs 0021-0022 and 0026) merely illustrate how stereoscopic vision functions. *See Yoshinari; paragraphs 0021-0022 and 0026.* These sections state that the illusion of three dimensions comes from the observer perceiving the background and the foreground in a displayed image at different distances. *See Yoshinari; paragraphs 0021-0022 and 0026.* This is a visual perception, not a value that is determined. The mere fact that distances exist does not mean that such distances are determined from the displayed image, or that a maximum depth value of three-dimensional content is determined. Yoshinari merely states that these distances are perceived and does not discuss determination of such distances or any maximum depth value of three-dimensional content.

App. Br. 9.

Issue on Appeal

Did the Examiner err in rejecting claim 1 as being obvious?

as to the rejections of these claims. Except for our ultimate decision, these claims are not discussed further herein.

³ This contention is determinative as to the rejections on appeal. Therefore, Appellants' other contentions are not discussed herein.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellants' arguments that the Examiner has erred.

As to Appellants' above contention, we agree. The Examiner responds by again citing to Yoshinari at paragraph 21 and as to claim 1 finds:

Yoshinari explicitly discloses, in ¶0021, establishing the distance from an observers eyes to the background of the image which is interpreted as the maximum depth value because the background of the image is maximum depth between the observer and the image. Given this teaching, the Examiner maintains that a maximum depth value of the three-dimensional content is determined.

Ans. 24. We are unable to find support in Yoshinari at paragraph 21 for the Examiner's finding that "a maximum depth value of the three-dimensional content *is determined*." Ans. 24, emphasis added. Rather, we agree with Appellants' interpretation that Yoshinari merely states a background at a certain distance exists without ever teaching the value of that distance can or should be determined. App. Br. 8–9. We conclude, consistent with Appellants' argument, there is insufficient articulated reasoning to support the Examiner's findings. Therefore, we conclude that there is insufficient articulated reasoning to support the Examiner's final conclusion that claim 1 would have been obvious to one of ordinary skill in the art at the time of Appellants' invention.

CONCLUSIONS

(1) Appellants have established that the Examiner erred in rejecting claims 1–11, 13–30, and 32–38 as being unpatentable under 35 U.S.C. § 103(a).

(2) On this record, claims 1–11, 13–30, and 32–38 have not been shown to be unpatentable.

DECISION

The Examiner’s rejections of claims 1–11, 13–30, and 32–38 are reversed.

REVERSED